

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No. 5960 of 2005
Date of Decision: August 25, 2006

M/s Jagdambe Traders and others Petitioners

versus

Punjab State Civil Supplies Cooperation Ltd. And others
.....Respondents

Present:- Shri D.S. Patwalia, Advocate for the petitioners

Ms. Deepali Puri, Advocate for respondents No.1 to 3.

HEMANT GUPTA, J.

The challenge in the present revision petition is to the order dated 9.8.2005 whereby defendants No. 1 to 3 were ordered to be transposed as plaintiffs.

The plaintiff-Bank has filed a suit for declaration to the effect that the plaintiff is the owner in possession being pledgee of the pledged goods lying in the premises of defendant No.4 and for permanent injunction restraining the defendants from removing, selling and misappropriating the stocks lying in the premises of the aforesaid firm. During the pendency of the said suit, the learned trial Court passed an order on 8.1.2003 on the application filed by defendants No. 4 to 6 i.e., the present petitioners, whereby the goods lying in the premises were disposed of by appointing a Local Commissioner. Defendants No.1 to 3 claimed ownership of the stocks lying in the godown of defendant No.4 to 6. The said order was passed keeping in view the fact that stocks in the godowns of defendants

No.4 were to be sold in open auction and the sale proceeds were to be deposited in the Court and so no loss was suffered by either of the parties. If the plaintiff is entitled to relief of declaration, the sale proceeds would go in favour of the plaintiff. In case, defendants No.1 to 3 are found to be entitled, the sale proceeds would be released in their favour and if defendants No.4 to 6 are found entitled, the sale proceeds would go in their favour.

Since the subject of the dispute was the stocks lying in the premises of defendant No.4 and the same has been sold under the orders of the court without deciding the entitlement of the goods in the suit, it is imperative to decide such question in the present suit itself and, thus, the learned trial Court has committed no error in transposing defendants No.1 to 3 as plaintiffs after the plaintiff bank has settled the accounts with defendant No.4.

Consequently, I do not find any patent illegality or material irregularity in the order passed by the trial Court on 9.8.2005 warranting interference by this Court in exercise of its revisional jurisdiction under Article 227 of the Constitution.

Dismissed.

August 25, 2006
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(HEMANT GUPTA)
JUDGE